IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

CIVIL CASE NO. 3:06cv298

NESSIEM KHOZAM,)
Plaintiff,)
VS.	ORDER
LSAA, INC. and SAM'S MART, INC.;)
Defendants.)
))

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed on October 18, 2006.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of

Designation of this Court, United States Magistrate Judge Carl Horn, III

was designated to consider the pending motions in the above-captioned

civil action and to submit to this Court a recommendation for the disposition

of these motions.

On October 18, 2006, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 16] in this case containing proposed findings of

fact and conclusions of law in support of a recommendation regarding the Motion to Dismiss for Failure to State a Claim [Doc. 6] filed by the defendants LSAA, Inc. and Sam's Mart, Inc. and the Motion to Dismiss for Lack of Subject Matter Jurisdiction [Doc. 8] filed by the defendant Sam's Mart, Inc. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation. The period within which to file objections expired on November 1, 2006. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation [Doc. 16] that the defendants' Motion to Dismiss for Failure to State a Claim [Doc. 6] should be granted with respect to the plaintiff's Title VII hostile work environment claim, but denied with respect to the plaintiff's Title VII disparate treatment claims. The Court further accepts the Magistrate Judge's Recommendation [Doc. 16] that the

defendant Sam's Mart, Inc.'s Motion to Dismiss for Lack of Subject Matter Jurisdiction [Doc. 8] should be granted.

IT IS, THEREFORE, ORDERED that the defendants' Motion to
Dismiss for Failure to State a Claim [Doc. 6] is GRANTED IN PART AND
DENIED IN PART. Specifically, the defendants' motion [Doc. 6] is
GRANTED and the complaint is DISMISSED WITH PREJUDICE with
respect to the plaintiff's Title VII hostile work environment claim, but
DENIED with respect to the plaintiff's Title VII disparate treatment claims.

IT IS FURTHER ORDERED that the defendant Sam's Mart, Inc.'s

Motion to Dismiss for Lack of Subject Matter Jurisdiction [Doc. 8] is

GRANTED and the complaint is hereby DISMISSED WITH PREJUDICE

with respect to the defendant Sam's Mart, Inc.

The parties are hereby **DIRECTED** to conduct an Initial Attorneys'

Conference within fifteen (15) days of the entry of this Order. The parties are further **DIRECTED** to file a Certification of Initial Attorneys' Conference within five (5) days thereafter so that the Magistrate Judge can enter the Case Management Order as soon thereafter as practical.

IT IS SO ORDERED.

Signed: October 5, 2007

Martin Reidinger United States District Judge